

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

GEORGE DERNIS and MARIA DERNIS,
husband and wife, and STEFANOS A.
PEROUSTIANIS and DESPINA
PEROUSTIANIS, husband and wife,

Plaintiffs,

Case No. 1:12-cv-

Honorable

NOTICE OF REMOVAL

v.

FDIC, as Receiver for Premier Bank of
Wilmette,

Defendant.

Veritas Law Group
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Attorneys for Plaintiffs
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Varnum LLP
Randall J. Groendyk (P37196)
Attorneys for Defendant
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616/336-6000

TO: Clerk of the Court
Matthew S. DePerno, Esq.

Defendant Federal Deposit Insurance Corporation, as Receiver for Premier Bank of Wilmette (hereinafter "FDIC-R" or "Receiver"), and pursuant to 12 U.S.C. § 1819(b)(2)(B), hereby removes the above-captioned action from the court in which it is currently pending, the Allegan County Circuit Court, Allegan County, Michigan ("State Court"), to the United States District Court for the Western District of Michigan ("Federal Court"), and states as follows:

1. On or about March 14, 2012, Plaintiffs filed a complaint ("Complaint") against Premier Bank of Wilmette ("the Bank") in the State Court. A copy of the Complaint is attached hereto as **Exhibit A** and copy of the Summons issued by the State Court is attached as **Exhibit B**. Additional process, pleadings and orders that were filed in the State Court in connection with this action are attached hereto as **Exhibits C, D, E, F, and G**.

2. After this action was commenced, on March 23, 2012, the Illinois Department of Financial and Professional Regulation – Division of Banking closed the Bank and appointed the FDIC as its receiver.

3. The FDIC accepted its appointment as Receiver and succeeded to all rights, titles, powers, and privileges of the Bank pursuant to 12 U.S.C. § 1821. Accordingly, on July 23, 2012, the State Court granted the FDIC-R's motion seeking to substitute itself into this action as the Defendant in the place and stead of the Bank. A copy of the Order for Substitution of Party is attached as **Exhibit F**.

Basis for Removal to Federal Court

4. The instant Notice of Removal is brought, in part, pursuant to 28 U.S.C. § 1331, which states: "The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States."

5. Any civil suit in which the FDIC, in any capacity, is a party, is "deemed to arise under the laws of the United States." 12 U.S.C. § 1819(b)(2)(A).

6. Further, the FDIC-R has a statutory right to remove cases in which it is a party from State Court to Federal Court pursuant to the Financial Institution Reform, Recovery and Enforcement Act of 1989. Specifically, 12 U.S.C. § 1819(b)(2)(B) provides in relevant part:

Except is provided in subparagraph (d) the Corporation may, without bond or security, remove any action, suit or proceeding from a State court to the United States district court before the end of the 90 day period beginning on the date the action, suit, or proceeding is filed against the Corporation or the Corporation is substituted as a party.

Id. (emphasis added).

7. As explained above, the FDIC-R was substituted into this action on July 23, 2012 and this Notice of Removal, therefore, has been timely filed within the applicable ninety-day period. (*See, Exhibit F*).¹

¹ Moreover, although the FDIC-R is not required to obtain the consent of the other parties in order to effectuate removal under U.S.C. § 1819(b)(2)(B), on or about August 6, 2012, the parties nevertheless stipulated that this case be removed to this Court. (*See, Exhibit G.*)

8. Because the FDIC-R is now a party to this action, it hereby removes this entire action to this Federal Court.

9. The FDIC will concurrently serve written notice of this removal to all parties of record in this action, and will file notice of the removal with the clerk of the Circuit Court of Allegan County, Michigan, pursuant to 28 U.S.C. § 1446(d).

10. Venue properly lies with this Federal Court pursuant to 28 U.S.C. § 1446(a), as this action is presently pending in the Circuit Court for Allegan County, Michigan.

11. A copy of all process, pleadings and orders served upon the FDIC-R, including those discussed above, are attached to this Notice of Removal as required by 28 U.S.C. § 1446(a). (*See, Exhibits A, B, C, D, E, F, G.*)

WHEREFORE, the FDIC-R hereby gives notice that the above action is hereby removed in its entirety to this Federal Court and respectfully requests that this action be placed on the docket of this Court for further proceedings as though it had originally been instituted in this Court.

Varnum LLP
Attorneys for
FDIC, as Receiver for Premier Bank of Wilmette

Date: October 19, 2012

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